

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0345P

**Gross Income Tax
Calendar Year 1994, 1995, and 1996**

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on March 4, 1999.

Taxpayer files a consolidated tax return. Upon audit it was determined that the taxpayer made several errors and included two subsidiaries that had no nexus nor situs in Indiana in its filing.

In a letter dated June 24, 1999, the taxpayer was asked to provide additional evidence within twenty days or request a hearing, and if no additional evidence was provided the decision would be based on the information contained in the file. The department makes its decision based upon the taxpayer's protest letter dated June 11, 1999 and information contained in the audit file.

ISSUE

I. Tax Administration – Penalty

DISCUSSION

Taxpayer requests a waiver of penalty and states that the parent company maintained a good relationship with the Indiana Department of Revenue by timely filing tax returns and paying taxes due and to its knowledge, the parent has not been previously audited. Taxpayer claims the parent and its subsidiaries at all times exercised reasonable care, caution and diligence in attempting to report and remit any tax owed.

Taxpayer's audit revealed that it made several errors which resulted in refunds for two years of the audit and an assessment in one year. The assessment was due to two subsidiaries that had no situs nor nexus in Indiana being deleted.

The Indiana Code and Regulations clearly outline the organizations that may file consolidated returns. The taxpayer was negligent in failing to make itself aware of the tax laws.

FINDING

Taxpayer's protest is denied.